

91.48 Rezoning of land out of a farmland preservation zoning district.

(1) A political subdivision with a certified farmland preservation zoning ordinance may rezone land out of a farmland preservation zoning district without having the rezoning certified under s. 91.36, if all of the following apply:

(a) The political subdivision finds all of the following, after public hearing:

1. The land is better suited for a use not allowed in the farmland preservation zoning district.

2. The rezoning is consistent with any applicable comprehensive plan.

3. The rezoning is substantially consistent with the county certified farmland preservation plan.

4. The rezoning will not ^{substantially} impair or limit ^{of current or future} the agricultural use of other protected farmland. ^{Insert 42-12 ✓}

(b) The owner of the land pays to the political subdivision a conversion fee equal ^{, for each rezoned acre or portion thereof,} to the greater of the following:

^{Insert 42-15} 1. One thousand dollars per acre of rezoned land or a different amount specified by the department by rule.

2. An amount specified in the certified farmland preservation ^{zoning} ordinance.

(2) A political subdivision shall annually provide all of the following to the department and, if the political subdivision is not a county, to the county:

(a) A description of the amount of land that the political subdivision has rezoned out of a farmland preservation zoning district since the effective date of this paragraph ^{LRB} [revisor inserts date], or since the date it last complied with this subsection, whichever is later, and a map that clearly shows the location of the land.

(b) A description of the amount of revenue that the political subdivision received as conversion fees under sub. (1) (b) since the effective date of this

1 paragraph [revisor ^{LRB} inserts date], or since the date it last complied with this
2 subsection, whichever is later.

3 **91.49 Use of conversion fees.** A political subdivision shall use conversion
4 fees received under s. 91.48 (1) (b) for its costs related to farmland preservation
5 planning, zoning, or compliance monitoring.

6 **91.50 Exemption from special assessments.** (1) Except as provided in sub.
7 (3), no political subdivision, special purpose district, or other local governmental
8 entity may levy a special assessment for sanitary sewers or water against land in
9 agricultural use, if the land is located in a farmland preservation zoning district.

10 (2) A political subdivision, special purpose district, or other local governmental
11 entity may deny the use of improvements for which the special assessment is levied
12 to land that is exempt from the assessment under sub. (1).

13 (3) The exemption under sub. (1) does not apply to an assessment that an owner
14 voluntarily pays, after the assessing authority provides notice of the exemption
15 under sub. (1).

16 SUBCHAPTER IV

17 FARMLAND PRESERVATION AGREEMENTS

18 **91.60 Farmland preservation agreements; general.** (1) AGREEMENTS
19 AUTHORIZED. The department may enter into a farmland preservation agreement, in
20 compliance ^{that complies with} with s. 91.62, with the owner of land that is eligible under sub. (2).

21 (2) ELIGIBLE LAND. Land is eligible if all of the following apply:

22 (a) The land consists of at least 35 contiguous acres on a farm that produced
23 at least \$6,000 in gross ^{farm} profits during the last taxable year preceding the year in
24 which the owner applies for a farmland preservation agreement or a total of at least
25 \$18,000 in gross farm profits during the last 3 taxable years preceding ^{the} that year.

in which the owner applies for a farmland preservation agreement

(b) The land is located in a farmland preservation area identified in a certified farmland preservation plan.

(c) The department has promulgated rules for designating working lands enterprise areas.

(d) The land is in a working lands enterprise area designated in accordance with the rules under par. (c). *or an agricultural -*

(3) PRIOR AGREEMENTS. (a) Except as provided in s. 91.66, a farmland preservation agreement entered into before the effective date of this paragraph [revisor inserts date], remains in effect for the term specified in the agreement and under the terms that were agreed upon when the agreement was last created, extended, or renewed.

(b) The department may not extend or renew a farmland preservation agreement entered into before the effective date of this paragraph [revisor inserts date].

91.62 Farmland preservation agreements; requirements. (1) CONTENTS.

The department may not enter into a farmland preservation agreement unless the agreement does all of the following:

(a) Specifies a term of at least 15 years.

(b) Includes a correct legal description of the tract of land covered by the farmland preservation agreement.

(c) Includes provisions that restrict the tract of land to the following uses:

1. Agricultural uses and accessory uses.

2. Undeveloped natural resource and open space uses.

(2) FORM. The department shall specify a form for farmland preservation agreements that complies with s. 59.43 (2m).

1 (3) EFFECTIVENESS. A farmland preservation agreement takes effect when it is
2 signed by all owners of the land covered by the farmland preservation agreement and
3 by the department.

4 (4) RECORDING. The department shall provide a copy of a signed farmland
5 preservation agreement to a person designated by the signing owners and shall
6 promptly present the signed agreement to the register of deeds for the county in
7 which the land is located for recording.

8 (5) CHANGE OF OWNERSHIP. A farmland preservation agreement is binding on
9 a person who purchases land during the term of a farmland preservation agreement
10 that covers the land.

11 **91.64 Applying for a farmland preservation agreement.** (1) SUBMITTING
12 AN APPLICATION. An owner who wishes to enter into a farmland preservation
13 agreement shall submit an application, on a form provided by the department, to the
14 county clerk of the county in which the land is located.

15 (2) CONTENTS OF APPLICATION. A person submitting an application under sub.
16 (1) shall include all of the following in the application:


17 (a) The name and address of each person who has an ownership interest in the
18 land proposed for coverage by the agreement.

19 (b) The location of the land proposed for coverage, indicated by street address,
20 global positioning system coordinates, or township, range, and section.

21 (c) The legal description of the land proposed for coverage.

22 (d) A map or aerial photograph of the land proposed for coverage, showing
23 parcel boundaries, residences and other structures, and significant natural features.

24 (e) Information showing that the land proposed for coverage is eligible under
25 s. 91.60 (2).



1 (f) A description of every existing mortgage, easement and lien, other than liens
2 on growing crops, on land proposed for coverage, including the name and address of
3 the person holding the lien, mortgage, or easement.

4 (g) A signed agreement from each person required to be identified under par.
5 (f) subordinating the person's lien, mortgage, or easement to the agreement.

6 (h) Any other information required by the department by rule.

7 (i) Any fee under sub. (2m).

8 **(2m) COUNTY PROCESSING FEE.** A county may charge a reasonable fee for
9 processing an application for a farmland preservation agreement.

10 **(3) COUNTY REVIEW.** (a) A county shall review an application under sub. (2) to
11 determine whether the land proposed for coverage meets the requirements under s.
12 91.60 (2) (b) and (d). The county shall provide its findings to the applicant in writing
13 within 60 days after the day on which the county clerk receives a complete
14 application.

15 (b) If the county finds under par. (a) that the land proposed for coverage meets
16 the requirements under s. 91.60 (2) (b) and (d), the county shall promptly send all of
17 the following to the department, along with any other comments that the county
18 chooses to provide:

19 1. The original application, including all of the information provided with the
20 application.

21 2. A copy of the county's findings.

22 **(4) DEPARTMENT ACTION ON APPLICATION.** (a) The department may prepare a
23 farmland preservation agreement that complies with s. 91.62 and enter into the
24 farmland preservation agreement under s. 91.60 (1) based on a complete application
25 and on county findings under sub. (3) (b).

1 (b) The department may decline to enter into a farmland preservation
2 agreement for any of the following reasons:

3 1. The application is incomplete.

4 2. The land is not eligible land under s. 91.60 (2).

5 **91.66 Terminating a farmland preservation agreement.** (1) The
6 department may terminate a farmland preservation agreement or release land from
7 a farmland preservation agreement at any time if all of the following apply:

8 (a) All of the owners of land covered by the farmland preservation agreement
9 consent to the termination or release, in writing.

10 (b) The department finds that the termination or release will not impair or limit
11 agricultural use of other protected farmland.

12 (c) The owners of the land pay to the department a conversion fee equal to \$100
13 per acre of land released from the farmland preservation agreement or a different
14 amount specified by the department by rule, except that no conversion fee is required
15 if the land is converted from agricultural use by government purchase or
16 condemnation.

****NOTE: Should the amount of the fee be changed, given the change to proposed
s. 91.48 (1) (b)?

17 (2) The department shall provide a copy of its decision to terminate a farmland
18 preservation agreement or release land from a farmland preservation agreement to
19 a person designated by the owners of the land and shall present a copy of the decision
20 to the register of deeds for the county in which the land is located for recording.

21 **91.68 Violations of farmland preservation agreements.** (1) The
22 department may bring an action in circuit court to do any of the following:

23 (a) Enforce a farmland preservation agreement.

(b) Restrain, by temporary or permanent injunction, a change in land use that violates a farmland preservation agreement.

(c) Seek a civil forfeiture for a change in land use that violates a farmland preservation agreement.

(5) (2) A forfeiture under sub. (1) (c) may not exceed twice the ^{fair market} value of the land covered by the agreement at the time of the violation.

91.70 Farmland preservation agreements; exemption from special assessments. (1) Except as provided in sub. (3), no political subdivision, special purpose district, or other local governmental entity may levy a special assessment for sanitary sewers or water against land in agricultural use, if the land is covered by a farmland preservation agreement.

(2) A political subdivision, special purpose district or other local governmental entity may deny the use of improvements for which the special assessment is levied to land that is exempt from the assessment under sub. (1).

(3) The exemption under sub. (1) does not apply to an assessment that an owner voluntarily pays, after the assessing authority provides notice of the exemption under sub. (1).

SUBCHAPTER V

SOIL AND WATER CONSERVATION

91.80 Soil and water conservation by persons claiming tax credits. An owner claiming farmland preservation tax credits under s. 71.613 shall comply with applicable land and water conservation standards promulgated by the department under ss. 92.05 (3) (c) and (k), 92.14 (8), and 281.16 (3) (b) and (c). ✓

91.82 Compliance monitoring. (1) COUNTY RESPONSIBILITY. (a) A county land conservation committee shall monitor compliance with s. 91.80. ✓

(b) For the purpose of par. (a), a county land conservation committee shall inspect each farm for which the owner claims farmland preservation tax credits ^{under subch. 18 of ch. 71} at least once every 4 years. ✓

(c) For the purpose of par (a), a county land conservation committee may do any of the following:

1. Inspect land that is covered by a farmland preservation agreement or farmland preservation zoning and that is in agricultural use.

2. Require an owner to certify, not more than annually, that the owner complies with s. 91.80.

(d) At least once every 4 years, the department shall review each county land conservation committee's compliance with par. (b).

(2) NOTICE OF NONCOMPLIANCE. (a) A county land conservation committee may issue a written notice of noncompliance to an owner if the committee finds that the owner has done any of the following:

1. Failed to comply with s. 91.80.

2. Failed to permit a reasonable inspection under sub. (1) (c) 1.

3. Failed to certify compliance as required under sub. (1) (c) 2.

(b) A county land conservation committee shall provide to the department of revenue a copy of each notice of noncompliance issued under par. (a).

(c) If a county land conservation committee determines that an owner has corrected the failure described in a notice of noncompliance under par. (a), it shall withdraw the notice of noncompliance and notify the owner and the department of revenue of the withdrawal.

(3) PROCEDURE. The department may promulgate rules prescribing procedures for the administration of this section by land conservation committees.

Inst
49-25 →

1 SECTION 41. 92.04 (2) (c) of the statutes is repealed. ✕

2 SECTION 42. 92.05 (3) (L) of the statutes is amended to read:

3 92.05 (3) (L) *Technical assistance; performance standards.* The department
4 shall provide technical assistance to county land conservation committees and local
5 units of government for the development of ordinances that implement standards
6 adopted under s. 92.07 (2), ~~92.105 (1)~~, 92.15 (2) or (3) or 281.16 (3). The department's
7 technical assistance shall include preparing model ordinances, providing data
8 concerning the standards and reviewing draft ordinances to determine whether the
9 draft ordinances comply with applicable statutes and rules.

10 SECTION 43. 92.104 of the statutes is repealed. ✕

11 SECTION 44. 92.105 of the statutes is repealed. ✕

12 SECTION 45. 92.106 of the statutes is repealed. ✕

13 SECTION 46. 92.14 (2) (e) of the statutes is amended to read:

14 92.14 (2) (e) Promoting compliance with the requirements under ss. 92.104 and
15 92.105 ^{or soil} land and water conservation by persons claiming ~~a~~ farmland preservation
16 ~~credit~~ tax credits under subch. IX of ch. 71. ✓

17 SECTION 47. 92.14 (3) (a) 1. of the statutes is amended to read:

18 ~~92.14 (3) (a) 1.~~ ^{↓ stat: leave as typed} Compliance with soil and water conservation requirements
19 ~~under ss. 92.104 and 92.105 by~~ applicable to persons claiming ~~a~~ farmland
20 ~~preservation credit~~ tax credits under subch. IX of ch. 71.

21 SECTION 48. 92.14 (3) (d) of the statutes is amended to read:

22 92.14 (3) (d) Implementing land and water resource management projects
23 undertaken to comply with the soil and water conservation requirements ~~under ss.~~
24 ~~92.104 and 92.105 by~~ applicable to persons claiming ~~a~~ farmland preservation credit
25 tax credits under subch. IX of ch. 71.

1 **SECTION 49.** 101.143 (4) (ei) 1m. a. of the statutes is amended to read:

2 101.143 (4) (ei) 1m. a. The owner or operator of the farm tank owns a parcel
3 of 35 or more acres of contiguous land, on which the farm tank is located, which is
4 devoted primarily to agricultural use, as defined in s. 91.01 (1), including land
5 designated by the department of natural resources as part of the ice age trail under
6 s. 23.17, which during the year preceding submission of a first claim under sub. (3)
7 produced gross farm profits, as defined in s. ~~71.58 (4)~~ 71.613 (1) (g), of not less than
8 \$6,000 or which, during the 3 years preceding that submission produced gross farm
9 profits, as defined in s. ~~71.58 (4)~~ 71.613 (1) (g), of not less than \$18,000, or a parcel
10 of 35 or more acres, on which the farm tank is located, of which at least 35 acres,
11 during part or all of the year preceding that submission, were enrolled in the
12 conservation reserve program under 16 USC 3831 to 3836.

13 **SECTION 50.** 101.143 (4) (ei) 1m. b. of the statutes is amended to read:

14 101.143 (4) (ei) 1m. b. The claim is submitted by a person who, at the time that
15 the notification was made under sub. (3) (a) 3., was the owner of the farm tank and
16 owned a parcel of 35 or more acres of contiguous land, on which the farm tank is or
17 was located, which was devoted primarily to agricultural use, as defined in s. 91.01
18 (1), including land designated by the department of natural resources as part of the
19 ice age trail under s. 23.17, which during the year preceding that notification
20 produced gross farm profits, as defined in s. ~~71.58 (4)~~ 71.613 (1) (g), of not less than \$6,000 or
21 which, during the 3 years preceding that notification, produced gross farm profits,
22 as defined in s. ~~71.58 (4)~~ 71.613 (1) (g), of not less than \$18,000, or a parcel of 35 or
23 more acres, on which the farm tank is located, of which at least 35 acres, during part
24 or all of the year preceding that notification, were enrolled in the conservation
25 reserve program under 16 USC 3831 to 3836.

1 **SECTION 51.** 165.25 (4) (ar) of the statutes, as affected by 2007 Wisconsin Acts
2 76 and 96, is repealed and recreated to read:

3 165.25 (4) (ar) The department of justice shall furnish all legal services
4 required by the department of agriculture, trade and consumer protection relating
5 to the enforcement of ss. 91.68, 100.171, 100.173, 100.174, 100.175, 100.177, 100.18,
6 100.182, 100.195, 100.20, 100.205, 100.207, 100.209, 100.21, 100.28, 100.37, 100.42,
7 100.50, 100.51, and 100.55 and chs. 126, 136, 344, 704, 707, and 779, together with
8 any other services as are necessarily connected to the legal services.

9 **SECTION 52.** 281.16 (3) (e) of the statutes is amended to read:

10 281.16 (3) (e) An owner or operator of an agricultural facility or practice that
11 is in existence before October 14, 1997, may not be required by this state or a
12 municipality to comply with the performance standards, prohibitions, conservation
13 practices or technical standards under this subsection unless cost-sharing is
14 available, under s. 92.14 or 281.65 or from any other source, to the owner or operator.
15 For the purposes of this paragraph, sub. (4) and ss. 92.07 (2), ~~92.105 (1)~~, 92.15 (4) and
16 823.08 (3) (c) 2., the department of natural resources shall promulgate rules that
17 specify criteria for determining whether cost-sharing is available under s. 281.65
18 and the department of agriculture, trade and consumer protection shall promulgate
19 rules that specify criteria for determining whether cost-sharing is available under
20 s. 92.14 or from any other source. The rules may not allow a determination that
21 cost-sharing is available to meet local regulations under s. 92.07 (2), ~~92.105 (1)~~ or
22 92.15 that are consistent with or that exceed the performance standards,
23 prohibitions, conservation practices or technical standards under this subsection
24 unless the cost-sharing is at least 70% of the cost of compliance or is from 70% to 90%
25 of the cost of compliance in cases of economic hardship, as defined in the rules.

1 **SECTION 53.** 281.65 (5) (b) of the statutes is amended to read:

2 281.65 (5) (b) Prepare sections of the priority watershed or priority lake plan
3 relating to farm-specific implementation schedules, requirements under ss. 92.104
4 ~~and 92.105~~ ^{S.} 281.16 (3) (e), animal waste management and selection of agriculturally
5 related best management practices and submit those sections to the department for
6 inclusion under sub. (4m) (b). The best management practices shall be cost-effective
7 best management practices, as specified under sub. (4) (e), except in situations in
8 which the use of a cost-effective best management practice will not contribute to
9 water quality improvement or will cause a water body to continue to be impaired as
10 identified to the federal environmental protection agency under 33 USC 1313 (d) (1)
11 (A).

12 **SECTION 54.** 281.65 (5) (d) of the statutes is amended to read:

13 281.65 (5) (d) Develop a grant disbursement and project management schedule
14 for agriculturally related best management practices to be included in a plan
15 established under sub. (4) (g) and identify recommendations for implementing
16 activities or projects under ss. 92.10, ~~92.104 and 92.105~~ and 281.16 (3) (e).

17 **SECTION 55.** 281.65 (5) (e) of the statutes is amended to read:

18 281.65 (5) (e) Identify areas within a priority watershed or priority lake area
19 that are subject to activities required under ss. ~~92.104 and 92.105~~ s. 281.16 (3) (e).

20 ~~(END)~~



BILL

1 (j) *Amounts subject to refund.* Amounts designated for Second Harvest under
2 this subsection are not subject to refund to the taxpayer unless the taxpayer submits
3 information to the satisfaction of the department, within 18 months after the date
4 on which the taxes are due or the date on which the return is filed, whichever is later,
5 that the amount designated is clearly in error. Any refund granted by the
6 department under this paragraph shall be deducted from the moneys received under
7 this subsection in the fiscal year for which the refund is certified.

SECTION 4. Initial applicability.

8
9 (1) The treatment of section 71.10 (5i) of the statutes first applies to taxable
10 years beginning on January 1 of the year in which this subsection takes effect, except
11 that if this subsection takes effect after July 31 the treatment of section 71.10 (5i) of
12 the statutes first applies to taxable years beginning on January 1 of the year
13 following the year in which this subsection takes effect. 71.613
2010

(END)

D-NOTE

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0203/P1insRT
RCT:.....

1 **Insert 2-3**

2 **SECTION 1.** 20.115 (7) (dm) of the statutes is created to read:

3 20.115 (7) (dm) *Farmland preservation planning grants*. As a continuing
4 appropriation, the amounts in the schedule for farmland preservation planning
5 grants under s. 91.10 (6). No moneys may be encumbered under this paragraph after
6 June 30, 2016. → note: bud

7 **SECTION 2.** 20.115 (7) (dr) of the statutes is created to read:

8 20.115 (7) (dr) *Agricultural enterprise area petition grants*. As a continuing
9 appropriation, the amounts in the schedule for grants under s. 91.88 for preparing
10 petitions requesting the designation of agricultural enterprise area. No moneys may
11 be encumbered under this paragraph after June 30, 2012. → note: bud

12 **Insert 25-19**

13 (6) (a) From the appropriation under s. 20.115 (7) (dm), the department may
14 award a planning grant to a county to provide reimbursement for up to 50 percent
15 of the county's cost of preparing a farmland preservation plan required under sub.
16 (1). In determining priorities for awarding grants under this subsection, the
17 department shall consider the expiration dates for plan certification under s. 91.14. ✓

18 (b) The department shall enter into a contract with a county to which it awards
19 a planning grant under par. (a) before the department distributes any grant funds
20 to the county. In the contract, the department shall identify the costs that are eligible
21 for reimbursement through the grant. ✓

22 (c) The department may distribute grant funds under this subsection only after
23 the county shows that it has incurred costs that are eligible for reimbursement under

par. (b). The department may not distribute more than 50 percent of the amount of a grant under this subsection for a farmland preservation plan before the county submits the farmland preservation for certification under s. 91.16.

(d) The department may not ~~enter into a contract~~ ^{grab} under par. (b) after June 30, 2016. _{↑ stet}

Insert 26-17

^{not} a county's increase in ~~average~~ ^g population per square mile is the percentage by which the county's ~~average~~ ^g population per square mile based on the department of administration's 2007 population estimate under s. 16.96 exceeds the county's ~~average~~ ^g population per square mile based on the 2000 federal census

Insert 31-1

^{not} a county's increase in ~~average~~ ^g population per square mile is the percentage by which the county's ~~average~~ ^g population per square mile based on the department of administration's 2007 population estimate under s. 16.96 exceeds the county's ~~average~~ ^g population per square mile based on the 2000 federal census

Insert 39-15

^{not} or convert land previously used as cropland, other than a woodlot, from agricultural use if on the farm there are reasonable alternative locations for a nonfarm residential parcel or nonfarm residence

Insert 40-7

(a) The use and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.

Insert 40-15

^{not} surrounding parcels of land that are zoned for or legally restricted to agricultural use

✓
Insert 40-21

(a) The use and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.

Insert 40-23

no ff
at and around the site of the use, ✓

Insert 41-7

no ff
surrounding parcels of land that are zoned for or legally restricted to agricultural use

Insert 41-16 ✓

(b) The operation and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.

(c) The operation and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations outside the farmland preservation zoning district, or are specifically approved under state or federal law. ✓

Insert 41-22

no ff
surrounding parcels of land that are zoned for or legally restricted to agricultural use

Insert 42-12

no ff
surrounding parcels of land that are zoned for or legally restricted to agricultural use ✓

Insert 42-14

1. Three times the per acre value, for the year in which the land is rezoned, of the highest value category of tillable cropland in the town in which the rezoned land is located, as ~~determined~~^{or specified} by the department of revenue under s. 73.03 (2a).

Insert 44-14

(c) The department and an owner of land who entered into a farmland preservation agreement before the effective date of this paragraph [LRB inserts date] may agree to modify the a farmland preservation agreement in order to allow the owner to claim the tax credit under s. 71.613 rather than the tax credit for which the owner would otherwise be eligible.

✓
****NOTE: The proposed language seemed to say that an agreement could be changed only if the change both allowed the owner to claim the credit created by this bill and allowed the agreement to be terminated under s. 91.66. I think that s. 91.66 already allows old agreements to be terminated if the requirements in s. 91.66 are met. Note that s. 91.60 (3) (a) indicates that through the cross-reference to s. 91.66. Perhaps I am not understanding the intent of proposed s. 91.60 (3). Please let me know.

Insert 47-12

not county
in which the land is located, for each rezoned acre or portion thereof, a conversion fee equal to the greater of the following:

1. Three times the per acre value, for the year in which the farmland preservation agreement is terminated or the land is released, of the highest value category of tillable cropland in the town in which the land is located, as specified determined by the department of revenue under s. 73.03 (2a).

by the county
2. An amount specified in an applicable certified farmland preservation ordinance.

SUBCHAPTER VI

AGRICULTURAL ENTERPRISE AREAS

91.84 Agricultural enterprise areas; general. (1) DESIGNATION. (a) The department may by rule designate agricultural enterprise areas targeted for agricultural preservation and development.

2. The department may by rule modify or terminate the designation of an agricultural enterprise area.

1 (b) Subject to par. (c), the department may designate agricultural enterprise
2 areas with a combined area of not more than 1,000,000 acres of land.

3 (c) Before January 1, 2012, the department may designate not more than 10
4 agricultural enterprise areas with a combined area of not more than 200,000 acres
5 of land.

6 (e) The department may not designate an area as an agricultural enterprise
7 area unless all of the following apply:

8 1. The department receives a petition requesting the designation and the
9 petition complies with s. 91.86.

10 2. The area consists of at least 1,000 acres of land.

11 3. The parcels in the area are contiguous. Parcels that are only separated by
12 a lake, stream, or transportation or utility right-of-way are contiguous for the
13 purposes of this subdivision.

14 4. The area is located entirely in a farmland preservation area identified in a
15 certified farmland preservation plan.

16 5. The land in the area is primarily in agricultural use.

17 (2) EMERGENCY RULES. The department may use the procedure under s. 227.24
18 to promulgate a rule designating an agricultural preservation area or modifying or
19 terminating the designation of an agricultural preservation area. Notwithstanding
20 s. 227.24 (1) (c) and (2), a rule promulgated under this paragraph remains in effect
21 until the department modifies or repeals the rule. Notwithstanding s. 227.24 (1) (a)
22 and (3), the department is not required to determine that promulgating a rule under
23 this subsection as an emergency rule is necessary for the preservation of the public
24 peace, health, safety, or welfare and is not required to provide a finding of emergency
25 for a rule promulgated under this subsection.

subsection

(3) EFFECT OF DESIGNATION. The designation of an area under sub. (1) allows owners of eligible land within the area to enter into farmland preservation agreements with the department. If the department modifies or terminates the designation of an area under sub. (1) and that modification or termination results in land covered by a farmland preservation agreement no longer be^{ing} located in a designated area, the farmland preservation agreement remains in effect for the remainder of its term, but the department may not extend or renew the farmland preservation agreement.

(4) MAP. In a rule designating an agricultural enterprise area, the department shall include a map that clearly shows the boundaries of the proposed agricultural enterprise area so that a reader can easily determine whether a parcel of land is located within the agricultural enterprise area.

(5) EFFECTIVE DATE OF DESIGNATION. The designation of an agricultural enterprise area takes effect on January 1 of the calendar year following the year in which the rule designating the area is published, unless the rule specifies a later effective date.

91.86 Agricultural enterprise area; petition. (1) DEFINITION. In this

section:

(a) "Eligible farm" means a farm that includes at least 35 contiguous acres of land and that produced at least \$6,000 in gross farm profits during the taxable year preceding the year in which a petition is filed requesting the department to designate an area in which the farm is located as an agricultural enterprise area or a total of at least \$18,000 in gross farm ^{profits} ~~products~~ during the 3 taxable years preceding ^{the} ~~that~~ year. ~~in which the owner applies for a farmland preservation agreement~~

(b) "Gross farm products" has the meaning given in s. 71.613 (1) (g).

a petition is filed

1 (2) PETITIONERS. (a) The department may consider a petition requesting that
2 it designate an area as an agricultural enterprising area if all of the following jointly
3 file the petition:

4 1. Each political subdivision in which any part of the proposed agricultural
5 enterprise area is located.

6 2. Owners of at least 5 eligible farms located in the area.

7 (b) Each petitioner under par. (a) who is an individual shall sign the petition.
8 For a petitioner that is not an individual, an authorized officer or representative
9 shall sign the petition.

10 (3) CONTENTS OF PETITION. (a) The department may not approve a petition
11 requesting that it designate an area as an agricultural enterprising area unless the
12 petition contains all of the following:

13 1. The correct legal name and principal address of each petitioner.

14 2. A summary of the petition that includes the purpose and rationale for the
15 petition.

16 3. A map that clearly shows the boundaries of the proposed agricultural
17 enterprise area so that a reader can easily determine whether a parcel of land is
18 located within the proposed area.

19 4. Information showing that the proposed agricultural enterprise area meets
20 the requirements under s. 91.84 (1) (e).

21 5. A clear description of current land uses in the proposed agricultural
22 enterprise area, including current agricultural uses, agriculture-related uses,
23 transportation, utility, energy, and communication uses, and undeveloped natural
24 resource and open space ^{uses} areas.

1 6. A clear description of the agricultural land use and development goals for
2 the proposed agricultural enterprise area, including proposed agricultural uses,
3 agriculture-related uses, and relevant transportation, utility, energy, and
4 communication uses.

5 7. A plan for achieving the goals under subd. 6., including any planned
6 investments, grants, development incentives, cooperative agreements, land or
7 easement purchases, land donations, and promotion and public outreach activities.

8 8. A description of any current or proposed land use controls in the proposed
9 agricultural enterprise area, including farmland preservation agreements.

10 (b) Petitioners under sub. (1)⁽²⁾ may include in the petition the names and
11 addresses of other persons who propose to cooperate in achieving the goals under par.

12 (a) 6. ✓

13 **91.88 Grants for preparing petitions.** (1) From the appropriation under
14 s. 20.115 (7) (dr), the department may award a grant of up to \$20,000 to a political
15 subdivision to provide reimbursement for up to 50 percent of the political
16 subdivision's cost of preparing a petition under s. 91.86 requesting the department
17 to designate an agricultural enterprise area. *in section*

18 (2) The department shall enter into a contract with a political subdivision to
19 which it awards a planning grant under sub. (1) *✓ stat: leave as typed* before the department distributes
20 any grant funds to the political subdivision. In the contract, the department shall
21 identify purposes for which the grant is awarded and the costs that are eligible for
22 reimbursement through the grant.

23 (3) The department may distribute grant funds under this subsection only
24 after the political subdivision shows that it has incurred costs that are eligible for
25 reimbursement under sub. (2). The department may not distribute more than 50

percent of the amount of a grant under this subsection for a proposed petition before the political subdivision submits a complete petition.

(4) The department may not enter into a contract under par. (b) after June 30, 2012.

Insert 52-8

SECTION 3. 165.25 (4) (ar) of the statutes is amended to read:

165.25 (4) (ar) The department of justice shall furnish all legal services required by the department of agriculture, trade and consumer protection relating to the enforcement of ss. 91.68, 100.171, 100.173, 100.174, 100.175, 100.177, 100.18, 100.182, 100.195, 100.20, 100.205, 100.207, 100.209, 100.21, 100.28, 100.37, 100.42, 100.50, and 100.51, ~~and~~ 100.55, and chs. 126, 136, 344, 704, 707, and 779, together with any other services as are necessarily connected to the legal services.

NOTE: NOTE: Par. (ar) is shown as affected by 2 acts of the 2007 Wisconsin legislature and as merged by the legislative reference bureau under s. 13.92 (2) (i). The bracketed "and" is inserted for correct grammar. Corrective legislation is pending. NOTE:

History: 1971 c. 125 s. 522 (1); 1971 c. 215; 1973 c. 333; 1975 c. 81, 199; 1977 c. 29 s. 1656 (27); 1977 c. 187, 260, 273, 344; 1981 c. 20, 62, 96; 1983 a. 27; 1983 a. 36 s. 96 (2), (3), (4); 1983 a. 192; 1985 a. 29, 66; 1987 a. 416; 1989 a. 31, 115, 187, 206, 359; 1991 a. 25, 39, 269; 1993 a. 27, 28, 365; 1995 a. 27 ss. 4453 to 4454m, 9126 (19); 1995 a. 201; 1997 a. 27, 111; 2001 a. 16; 2003 a. 111, 235; 2005 a. 96, 458; 2007 a. 1; 2007 a. 20 ss. 2904, 9121 (6) (a); 2007 a. 76, 79, 96, 130, 225; s. 13.92 (2) (i).

strike

score

strike

INS 14-13
MES

under s. 71.613). This new appropriation, like the amended appropriation under s. 20.835(2)(dm), Stats., will also be used to pay a limited number of claims under the "old" farmland preservation tax credit (ss. 71.57 to 71.61) – for example, by persons covered by existing farmland preservation agreements.]

71.61(6): Modify as follows:

71.61(6) PROHIBITION OF NEW CLAIMS. For taxable years beginning after December 31, ~~2008~~ 2009, no new claims for a credit may be filed under ss. 71.57 to 71.61, but if an otherwise eligible claimant is subject to a farmland preservation agreement, as defined in s. 91.01(7) 2005 stats., that is in effect on January 1, ~~2009~~ 2010, the claimant may continue to file a claim for the credit under ss. 71.57 to 71.61 until the farmland preservation agreement expires, except that no claimant who files a claim under ss. 71.57 to 71.61 may file a claim under s. 71.613.

71.613(title): Modify as follows:

71.613(title) Farmland preservation credit, ~~2009~~ 2010 and beyond.

71.613(3)(d): Substitute the following:

71.613(3)(d) A claimant shall claim the credit under this section on a form prepared by the department, and shall include relevant documentation required by the department. A claimant shall certify all of the following in the claim form:

1. The number of qualifying acres for which the credit is claimed.
2. The location, including tax parcel number, of each tax parcel on which the qualifying acres are located.
3. That the claimant has paid, or is legally responsible for paying, property taxes levied against the qualifying acres. The department may require a claimant to include a copy of the claimant's property tax bill related to the qualifying acres.
4. That the qualifying acres are covered by a farmland preservation agreement or located in a farmland preservation zoning district, or both. The department may require a copy of the farmland preservation agreement, or a certificate of zoning coverage issued by the responsible zoning authority, unless the claimant has already submitted that documentation in connection with a prior year's claim under this section or s. 71.59.

⁽⁹⁾ 3. The claimant submits to the department ⁽⁵⁾ That the qualifying acres are part of a farm that complies with applicable state ⁽¹⁰⁾ with soil and water conservation standards, as required by s. 91.80. The claimant shall include a certification of compliance issued by the county land conservation committee unless, in the last preceding year, the claimant received a tax credit under ss. 71.57 to 71.61 or this section for the same farm.

⁽¹¹⁾ ~~NOTE~~ NOTE: Is "certification of compliance" correct, or do you mean "certificate of compliance?" Also, is it your intent that, essentially, a claimant only needs to be certified once?

4-star note

INS 14-24
NES

under s. 71.613). This new appropriation, like the amended appropriation under s. 20.835(2)(dm), Stats., will also be used to pay a limited number of claims under the "old" farmland preservation tax credit (ss. 71.57 to 71.61) – for example, by persons covered by existing farmland preservation agreements.]

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71.613(3)(d) A claimant shall claim the credit under this section on a form prepared by the department, and shall include relevant documentation required by the department. A claimant shall certify all of the following in the claim form:

- ④ 1. The number of qualifying acres for which the credit is claimed.
- ④ 2. The location, *including and for* tax parcel number, of each tax parcel on which the qualifying acres are located.
3. That the claimant has paid, or is legally responsible for paying, property taxes levied against the qualifying acres. The department may require a claimant to include a copy of the claimant's property tax bill *related* to the qualifying acres.
- ④ 4. That the qualifying acres are covered by a farmland preservation agreement or located in a farmland preservation zoning district, or both. The department may require a copy of the farmland preservation agreement, or a certificate of zoning coverage issued by the responsible zoning authority, unless the claimant has already submitted that documentation in connection with a prior year's claim under this section or s. 71.59.
- ④ 5. That the qualifying acres are part of a farm that complies with applicable state soil and water conservation standards, as required by s. 91.80. The claimant shall include a certification of compliance issued by the county land conservation committee unless, in the last preceding year, the claimant received a tax credit under ss. 71.57 to 71.61 or this section for the same farm.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0203/?dnMES

late

MES\$
RCT
cjs

71.28(2m)(c) 1. 5
and

Please review the following statutes and let me know whether the current cross-reference to "subch. IX" is OK or whether it needs to be modified: ss. 71.03 (6m), 71.07 (3m) (c) 1., 71.07 (6e) (c) 2., 71.47 (2m) (c) 1., 71.49 (1) (f).

Current law requires a claimant to be domiciled in this state during the entire year. See s. 71.58 (1) (intro.). Do you want a similar provision in this bill? If not, do you want the credit pro-rated for nonresidents or part-year residents based on the ratio of their Wisconsin adjusted gross income to their federal AGI? ✓

I advanced the dates by one year in ss. 71.07 (3m) (e), 71.28 (2m) (e), and 71.47 (2m) (e), which is consistent with your instruction to advance the dates by one year in s. 71.61 (6). Is this OK? ✓

I did not include the first sentence of your proposed s. 71.613 (3) (d) 3. in this version of the draft because it is essentially the same as s. 71.613 (3) (a) 1. I also did not include your proposed language regarding information that DOR "may" require a claimant to submit, in proposed s. 71.613 (3) (d) 3. (second sentence) and 4., because s. 71.613 (3) (d) already requires a claimant to submit "any documentation required by the department." I also moved your proposed second sentence in s. 71.613 (3) (d) 5., the requirement to submit a certification of compliance as described in s. 91.80, to s. 71.613 (3) (a) 3. ✓

Managing Senior Attorney
Marc E. Shovers
Senior Legislative Attorney
Phone: (608) 266-0129
E-mail: marc.shovers@legis.wisconsin.gov

⑨ I have not yet changed all of the cross-references to provisions that ~~are~~ in current chapter 91 or to ss. 92.104 and 92.105. I will do that in a later version.
RET

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0203/P1dn
MES&RCT:cjs:md

October 15, 2008

Please review the following statutes and let me know whether the current cross-reference to "subch. IX" is OK or whether it needs to be modified: ss. 71.03 (6m), 71.07 (3m) (c) 1., 71.07 (6e) (c) 2., 71.28 (2m) (c) 1., 71.47 (2m) (c) 1., and 71.49 (1) (f).

Current law requires a claimant to be domiciled in this state during the entire year. See s. 71.58 (1) (intro.). Do you want a similar provision in this bill? If not, do you want the credit pro-rated for nonresidents or part-year residents based on the ratio of their Wisconsin adjusted gross income to their federal AGI?

I advanced the dates by one year in ss. 71.07 (3m) (e), 71.28 (2m) (e), and 71.47 (2m) (e), which is consistent with your instruction to advance the dates by one year in s. 71.61 (6). Is this OK?

I did not include the first sentence of your proposed s. 71.613 (3) (d) 3. in this version of the draft because it is essentially the same as s. 71.613 (3) (a) 1. I also did not include your proposed language regarding information that DOR "may" require a claimant to submit, in proposed s. 71.613 (3) (d) 3. (second sentence) and 4., because s. 71.613 (3) (d) already requires a claimant to submit "any documentation required by the department." I also moved your proposed second sentence in s. 71.613 (3) (d) 5., the requirement to submit a certification of compliance as described in s. 91.80, to s. 71.613 (3) (a) 3.

Marc E. Shovers
Managing Attorney
Phone: (608) 266-0129
E-mail: marc.shovers@legis.wisconsin.gov

I have not yet changed all of the cross-references to provisions in current chapter 91 or to ss. 92.104 and 92.105. I will do that in a later version.

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: becky.tradewell@legis.wisconsin.gov

PROPOSED FARMLAND PRESERVATION LEGISLATION

DATCP Comments on LRB 09-0203/P1

✓ Page 2, after line 4, insert the following:

SECTION 4m. 25.466 of the statutes is created to read:

25.466 There is established a nonlapsible trust fund designated as the working lands trust fund, to consist of all revenues deposited under s. 91.49(1) and 91.66(2m).

[DRAFTER'S NOTE: This bill creates a working lands trust fund, to consist mainly of conversion fees that local governments will collect under this bill from the owners of land rezoned out of farmland preservation zoning districts. Funds deposited to the working lands trust fund will first become available for appropriation beginning in the FY 2011-13 biennium (NOT the FY 2009-11 biennium). DATCP proposes to fund the following appropriations from the working lands trust fund, beginning in the FY 2011-13 biennium (appropriation amounts will be established in the FY 2011-13 budget act, based on working lands trust fund revenue projections at that time):

- *A SEG appropriation for the purchase of agricultural conservation easements (PACE). DATCP has proposed separate budget legislation to create the PACE program. The PACE legislation (LRB-0202/P1) authorizes the state to borrow \$12 million(issue \$12 million in general obligation bonds) for PACE, beginning in the FY 2009-11 biennium, and provides a sum sufficient GPR appropriation beginning in the FY 2009-11 biennium to pay interest on the borrowed funds. SEG appropriations from the working lands trust fund (see below) could begin to supplement these bond revenue and debt service appropriations beginning in the FY 2011-13biennium. SEG moneys from the working lands trust fund could be used for the direct purchase of PACE easements, or for debt service on bonds issued to finance the purchase of PACE easements, or both.*
- *A SEG appropriation (see below) to fund farmland preservation planning grants to counties under s. 91.10(6), Stats., as created by this bill. This SEG appropriation could substitute for the GPR appropriation under this bill beginning in the FY 2011-13 biennium. The planning grant appropriation will sunset in 2016.*
- *A SEG appropriation (see below) for grants under s. 91.88, Stats., as created by this bill to fund the development of local proposals for the creation of "agricultural enterprise areas." This SEG appropriation could substitute for the GPR appropriation under this bill beginning in the FY 2011-13 biennium.*
- *A SEG appropriation (see below) to fund agricultural development grants in "agricultural enterprise areas" created under this bill.*

- *A SEG appropriation (see below) to pay for EXISTING staff to administer the farmland preservation program and new PACE program. Beginning in the 2011-13 biennium, this SEG appropriation could substitute for part of the current SEG appropriation under s. 20.115(7)(qd) from the environmental fund.*

Page 2, after line 2, insert the following:

✓ SECTION 2g. 20.115(7)(t) of the statutes is created to read:

20.115(7)(t) *Principal repayment and interest; agricultural conservation easements.* From the working lands fund, the amounts in the schedule for the payment of principal and interest costs incurred in providing funds for the purchase of agricultural conservation easements under s. 93.73 and to make the payments determined by the building commission under s. 13.88(1)(m) that are attributable to the proceeds of obligations incurred in financing those purchases. **[NOTE: Schedule amounts will be set at zero for the FY 2009-11 biennium, because there will be no cash balance in the working lands fund until the end of the biennium. The FY 2011-13 biennial budget act will establish schedule amounts for that biennium, based on working lands trust fund balances and revenue projections at that time.]**

✓ SECTION 2g. 20.115(7)(tg) of the statutes is created to read:

20.115(7)(tg) *Agricultural conservation easements.* From the working lands fund, the amounts in the schedule for the purchase of agricultural conservation easements under s. 93.73. **[NOTE: Schedule amounts will be set at zero for the FY 2009-11 biennium.]**

✓ SECTION 2m. 20.115(7)(tm) of the statutes is created to read:

20.115(7)(tm) *Farmland preservation planning grants.* From the working lands fund, the amounts in the schedule for farmland preservation planning grants to counties under s. 91.10(6). **[NOTE: Schedule amounts will be set at zero for the FY 2009-11 biennium.]**

✓ SECTION 2p. 20.115(7)(tp) of the statutes is created to read:

20.115(7)(tp) *Agricultural enterprise areas; plan development grants.* From the working lands fund, the amounts in the schedule for grants under s. 91.88 to fund the development of local petitions for the creation of agricultural enterprise areas. **[NOTE: Schedule amounts will be set at zero for the FY 2009-11 biennium.]**

✓ SECTION 2r. 20.115(7)(tr) of the statutes is created to read:

20.115(7)(tr) *Agricultural enterprise areas; agricultural development grants.* From the working lands fund, the amounts in the schedule for agricultural development grants under s. 93.46(2) and (3) and sustainable agriculture grants under s. 93.47 that are targeted to agricultural enterprise areas designated under s. 91.84. **[NOTE: Schedule amounts will be set at zero for the FY 2009-11 biennium.]**

SECTION 2s. 20.115(7)(ts) of the statutes is created to read:

20.115(7)(ts) *Working lands program.* From the working lands fund, the amounts in the schedule for administration of the farmland preservation program under ch. 91 and the program to purchase agricultural conservation easements under s. 93.73. **[NOTE: Schedule amounts will be set at zero for the FY 2009-11 biennium.]**

Page 2, lines 5-12, substitute the following:

SECTION 5. 66.0721(1)(b) of the statutes is repealed and recreated to read:

66.0721 (1) (b) "Eligible farmland" means land that is eligible for farmland preservation tax credits under s. 71.58 to 71.61 or 71.613, Stats.

Page 7 (Response to drafter's note after line 8): Yes, we would like the same restriction to apply to the tax credit under s. 71.613. *in 113: p. 18, after line 22, 71.58(1)(b)*

Page 12 (Response to drafter's note after line 2): Yes, the provision captures our intent. *p. 18, l. 13 -- 71.61(6)*

Page 12, lines 11-14, modify as follows:

(d) "Farm" means a farm, as defined in s. 91.01(13), that has produced at least \$6,000 in gross farm ~~profits~~ revenues during the taxable year to which the claim relates or, in the taxable year to which the claim relates and the 2 immediately preceding taxable years, at least \$18,000 in gross farm ~~profits~~ revenues.

Page 12, lines 18-20, modify as follows: *p. 19, l. 6006/P3*

(g) "Gross farm ~~profits~~ revenues" means gross receipts from agricultural use of a farm, excluding rent receipts, less the cost or other basis of livestock or other agricultural items purchased for resale which are sold or otherwise disposed of during the taxable year.

Page 13 (Response to drafter's note after line 4): Yes, the provision captures our intent.

Page 14 (Response to drafter's note after line 15): Either "certification" or "certificate" is fine. Yes, claimant only needs to be certified once.

Page 19, line 18: Modify as follows:

(20) "Gross farm ~~profits~~ revenues" has the meaning given in s. 71.613 (1) (g).

no - see email
Page 21, lines 24-25: The draft (inadvertently?) deletes par. (q) related to rulemaking authority to specify conversion fees. The deleted provision should be restored.

Page 26, line 17: Correct typographical error as follows:

"...submits the farmland preservation plan for certification under s. 91.16."

✓ **Page 35 (Response to drafter's note after line 6):** Modify the first sentence of paragraph (d) to read:

"A political subdivision shall notify the department in writing whenever the political subdivision adopts a ~~material~~ an amendment under par. (b) to a certified farmland preservation zoning ordinance."

✓ **Page 42 (Response to drafter's note after line 10):** Yes, the provision captures our intent.

✓ **Page 44, lines 6-18, modify to read as follows:**

(2) A political subdivision shall by March 1 of each year submit all of the following to the department:

(a) A report of the total number of acres that the political subdivision rezoned out of a farmland preservation district under sub. (1) during the preceding calendar year, and a map showing the location of those acres.

(b) A report of the total amount of conversion fees collected under sub. (1)(b) for the rezoned acres reported under par. (a).

(c) A payment equal to the number of acres reported under par. (a), multiplied by the amount provided under sub. (1)(b)1.

[DRAFTER'S NOTE: Under s. 91.48(1)(b)2., a political subdivision may collect a conversion fee that is greater than the minimum amount required under sub. (1)(b)1. The political subdivision is only required to forward to the department the minimum conversion fee amount required under sub. (1)(b)1. If the political subdivision collects a higher conversion fee from the landowner, it may keep the difference. A political subdivision may also keep any interest earned on the conversion fee funds during the time that those funds are held by the political subdivision.]

(3) If the political subdivision under sub. (2) is not a county, the political subdivision shall by March 1 of each year submit a copy of the information that it reports to the department under sub. (2)(a) and (b) to the county in which the political subdivision is located.

(4) If a political subdivision fails to comply with sub. (2), the department may withdraw the certification granted under s. 91.06, 2007 stats., or under s. 91.36, for the farmland preservation ordinance administered by that political subdivision under this chapter.

91.49 Use of conversion fee revenues. (1) The department shall deposit all payments received under s. 91.48(2)(c) to the working lands fund.

(2) If a political subdivision collects a conversion fee under s. 91.48(1)(b)2. that exceeds the minimum conversion fee required under s. 91.48(1)(b)1. and forwarded to the department under s. 91.48(2)(c), the political subdivision shall use the difference for its costs related to farmland preservation planning, zoning or compliance monitoring.

[DRAFTER'S NOTE: The working lands fund is a new segregated trust fund created by this bill under s. 25.466, Stats. (see above).]

✓ **Page 45, lines 10-14, modify as follows:**

(a) The land ~~consists of at least 35 contiguous acres on~~ is operated as part of a farm that produced at least \$6,000 in gross farm ~~profits~~ revenues during the taxable year preceding the year in which the owner applies for a farmland preservation agreement or a total of at least \$18,000 in gross farm ~~profits~~ revenues during the last 3 taxable years preceding the year in which the owner applies for a farmland preservation agreement.

✓ **Page 46 (Response to drafter's note after line 5):** The new paragraph (c) looks fine.

✓ **Page 49, lines 8 to 15, substitute the following:**

(c) The owners of the land pay to the department, for each acre or portion thereof released from the farmland preservation agreement, a conversion fee equal to 3 times the per acre value, for the year in which the farmland preservation agreement is terminated or the land is released, of the highest value category of tillable cropland in the town in which the land is located, as specified by the department of revenue under s. 73.03(2a).

(2m) The department shall deposit, to the working lands fund, all conversion fees that it receives under sub. (1)(c).

✓ **Page 51 (Response to drafter's note after line 14):** In sub. (2)(a), change "may" to "shall" per drafter's note.

✓ **Page 52, line 19. Delete subd. 2.**

✓ **Page 52, after line 25, insert the following:**

(f) In designating individual agricultural enterprise areas under this subsection, the department shall give preference to individual areas that include at least 1,000 acres of land.

✓ **Page 54, lines 1-7, modify as follows:**

(1) DEFINITION. In this section, "eligible farm" means a farm that ~~includes at least 35 contiguous acres of land and~~ produced at least \$6,000 in gross farm ~~profits~~ revenues during the taxable year preceding the year in which a petition is filed requesting the department to designate an area in which the farm is located as an agricultural enterprise area or a total of at least \$18,000 in gross farm ~~profits~~ revenues during the 3 taxable years preceding the year in which a petition is filed.

no see email
Page 57, lines 14-24, substitute the following:

101.143 (4) (ei) 1m. a. The owner or operator of the farm tank owns a parcel of ~~35 or more acres of contiguous land,~~ land on which the farm tank is located, which is devoted primarily to agricultural use, as defined in s. ~~91.01(1)~~ 91.01(2), including land designated by the department of natural resources as part of the ice age trail under s. 23.17, which during the year preceding submission of a first claim under sub. (3)

produced gross farm ~~profits~~ revenues, as defined in s. ~~71.58(4)~~ 71.613(1)(g), of not less than \$6,000 or which, during the 3 years preceding that submission produced gross farm ~~profits~~ revenues, as defined in s. ~~71.58(4)~~ 71.613(1)(g), of not less than \$18,000, or a parcel of 35 or more acres, on which the farm tank is located, of which at least 35 acres, during part or all of the year preceding that submission, were enrolled in the conservation reserve program under 16 USC 3831 to 3836.

Page 58, lines 1-12, substitute the following:

no
see
email
101.143 (4) (ei) 1m. b. The claim is submitted by a person who, at the time that the notification was made under sub. (3) (a) 3., was the owner of the farm tank and owned a parcel of ~~35 or more acres of contiguous land~~, land on which the farm tank is or was located, which was devoted primarily to agricultural use, as defined in s. ~~91.01~~ (+) 91.01(2), including land designated by the department of natural resources as part of the ice age trail under s. 23.17, which during the year preceding that notification produced gross farm ~~profits~~ revenues, as defined in s. ~~71.58(4)~~ 71.613(1)(g), of not less than \$6,000 or which, during the 3 years preceding that notification, produced gross farm ~~profits~~ revenues, as defined in s. ~~71.58(4)~~ 71.613(1)(g), of not less than \$18,000, or a parcel of 35 or more acres, on which the farm tank is located, of which at least 35 acres, during part or all of the year preceding that notification, were enrolled in the conservation reserve program under 16 USC 3831 to 3836.

Tradewell, Becky

From: Matson, James K - DATCP [James.Matson@Wisconsin.gov]
Sent: Monday, January 12, 2009 9:32 AM
To: Tradewell, Becky
Subject: RE: Farmland preservation

Hi Becky. In response to your questions:

- ✓ 1. The department would prefer to eliminate the sunset provisions. There will be ample opportunity to review the continuation of the grant programs in future budgets.
- ✓ 2. Good point on the sustainable agriculture program (sorry for the oversight).
- ✓ 3. No need to give DATCP authority to modify conversion fees by rule. Draft is fine as is (sorry for the confusing instruction in our latest comments).
- ✓ 4. We don't have an opinion, one way or another, on the PECFA eligibility issue. But it might be safer to keep the PECFA statute as is (refer to terms as used in the 2007 statutes) so that it doesn't become a issue.

Thanks.

Jim

From: Tradewell, Becky [mailto:Becky.Tradewell@legis.wisconsin.gov]
Sent: Saturday, January 10, 2009 1:42 PM
To: Matson, James K - DATCP
Subject: Farmland preservation

Jim,

A few things on the redraft instructions for the farmland preservation draft (LRB-0203):

The redraft instructions indicate that SEG appropriations should be created for the planning grants under s. 91.10 (6) and grants for developing local petitions under s. 91.88. Currently, the draft sunsets both of those programs. For each program, either the new appropriation should be sunset or the sunset in the program should be eliminated. What should I do?

✓ Regarding proposed s. 20.115 (7) (tr): The sustainable agriculture grant program was repealed last session.

Concerning the instruction for page 26, lines 24-25: DATCP authority to change the conversion fees was replaced with local authority based on instructions to change last session's proposal for this session. In order to restore the DATCP authority, I will have to modify the provisions that specify the amount of the fees. Shall I do that? For both rezoning and withdrawing from agreements?

Regarding the proposed changes to the treatment of s. 101.143 (4) (ei) 1m. a. and b.: This will change eligibility for PECFA (the program that provides reimbursement for cleaning up after leaky underground storage tanks). Is that what DATCP intends?

Thanks,
Becky
266-7290

Tradewell, Becky

From: Miner, Andrew - DOA [Andrew.Miner@Wisconsin.gov]
Sent: Monday, January 12, 2009 2:09 PM
To: Tradewell, Becky; Shovers, Marc
Cc: Steinmetz, Jana D - DOA
Subject: draft 203 - FP tax credit cap

Hi Becky and Mark,

We would like to insert an annual cap for the farmland preservation tax credit. It should be set at \$27,280,000 per year (this amount may yet change, but the details of getting there should not). Under this cap, we would like to ensure that the \$15 million in lottery funds that is being redirected from the repeal of the farmland relief tax credit is used first, with the remainder from GPR. We were unsure as to how best to implement this in the draft. You can discuss this with DATCP. Please let me know if you have any questions. Thanks,
Andrew

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